

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
) CIVIL ACTION NO. 1:19-cv-575-LG-RHW
Plaintiff,)
)
v.)
)
1.54 ACRES, MORE OR LESS,)
LOCATED IN HANCOCK COUNTY,)
STATE OF MISSISSIPPI; ATLANTIC)
COAST CONSERVANCY, INC., A GEORGIA)
NON-PROFIT CORPORATION; AND)
HANCOCK COUNTY, MISSISSIPPI; ET AL.)
)
Defendants.)

COMPLAINT IN CONDEMNATION WITH DECLARATION OF TAKING

1. This is a civil action brought by the United States of America at the request of the Secretary of the Navy through the Deputy Assistant Secretary of the Navy for Installations and Facilities, for the taking of property under the power of eminent domain through a Declaration of Taking and for the determination and award of just compensation to the owners and parties in interest.
2. This Court has jurisdiction over all relevant matters in the case as provided by 28 U.S.C. § 1338.
3. The authority for the acquisition of the estate in property taken is set forth in Schedule "A," attached hereto and made a part hereof.
4. The public purpose for which the property is taken is set forth in Schedule "B," attached hereto and made a part hereof.

5. A legal description of the land and interests being taken are set forth in Schedule "C," attached hereto and made a part hereof.

6. The plat showing the land taken is set forth in Schedule "D," attached hereto and made a part hereof.

7. The estate taken in the property is set forth in Schedule "E," attached hereto and made a part hereof.

8. The amount estimated to be just compensation for the taking is set forth in Schedule "F," attached hereto and made a part hereof.

9. The persons who may have or claim a purported interest in the property and whose names are known are listed in Schedule "G," attached hereto and made a part hereof.

WHEREFORE, Plaintiff demands judgment that the property and interests be condemned, and that just compensation for the taking be ascertained, and such other relief as may be lawful and proper.

DATED: September 13, 2019

D. Michael Hurst, Jr.

United States Attorney

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Assistant United States Attorney
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Attorneys for Plaintiff United States of America

CIVIL COVER SHEET

1:19-cv-575-LG-RHW

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Miles Plant, U.S. Department of Justice, Environment and Natural Resources Division, P.O. Box 7611 - Ben Franklin Station, Washington, D.C. 20044, Telephone: 202-305-0284

DEFENDANTS

1.54 Acres, More or Less, Located in Hancock County, State of Mississippi; Atlantic Coast Conservancy; et al.

County of Residence of First Listed Defendant Hancock
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (*If Known*)**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
<i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
<i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input checked="" type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		IMMIGRATION	FEDERAL TAX SUITS	
		<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
		<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. 1338**VI. CAUSE OF ACTION**Brief description of cause:
 Eminent domain**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.**DEMAND \$**CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFFP _____ JUDGE _____ MAG. JUDGE _____

SIGNATURE OF ATTORNEY OF RECORD

/s/Miles Plant

SCHEDULE A

AUTHORITY FOR TAKING

This taking is filed pursuant to 40 U.S.C. § 3113; 40 U.S.C. § 3114; 10 U.S.C. § 2663(a)(1)(A); the National Defense Authorization Act for Fiscal Year 2015, P.L. 113-291 §§ 2201 and 4601 at 128 Stat. 3794, which authorized Military Construction Project 240, allowing for the acquisition of land; the Consolidated and Further Continuing Appropriations Act, 2015 P.L. 113-235, which appropriated funds.

The authority granted to the Secretary of the Navy in 10 U.S.C. § 2663(a)(1)(A) was delegated to the Assistant Secretary of the Navy (Energy, Installations, and Environment) (ASN (EI&E)) in SECNAVINST 5430.7R, dated 3 January 2017. This authority was further delegated from ASN (EI&E) to the Deputy Assistant Secretary of the Navy (Installations and Facilities) (DASN (I&F)) in an ASN (EI&E) memo, dated 27 March 2017.

SCHEDULE B
PUBLIC PURPOSE

The lands described in Schedule C are taken for the public purpose of national defense and military use by the United States as authorized by law, including, but not limited to, incorporation into the Western Maneuver Area, which is used for ground combat training by the Naval Special Warfare Command.

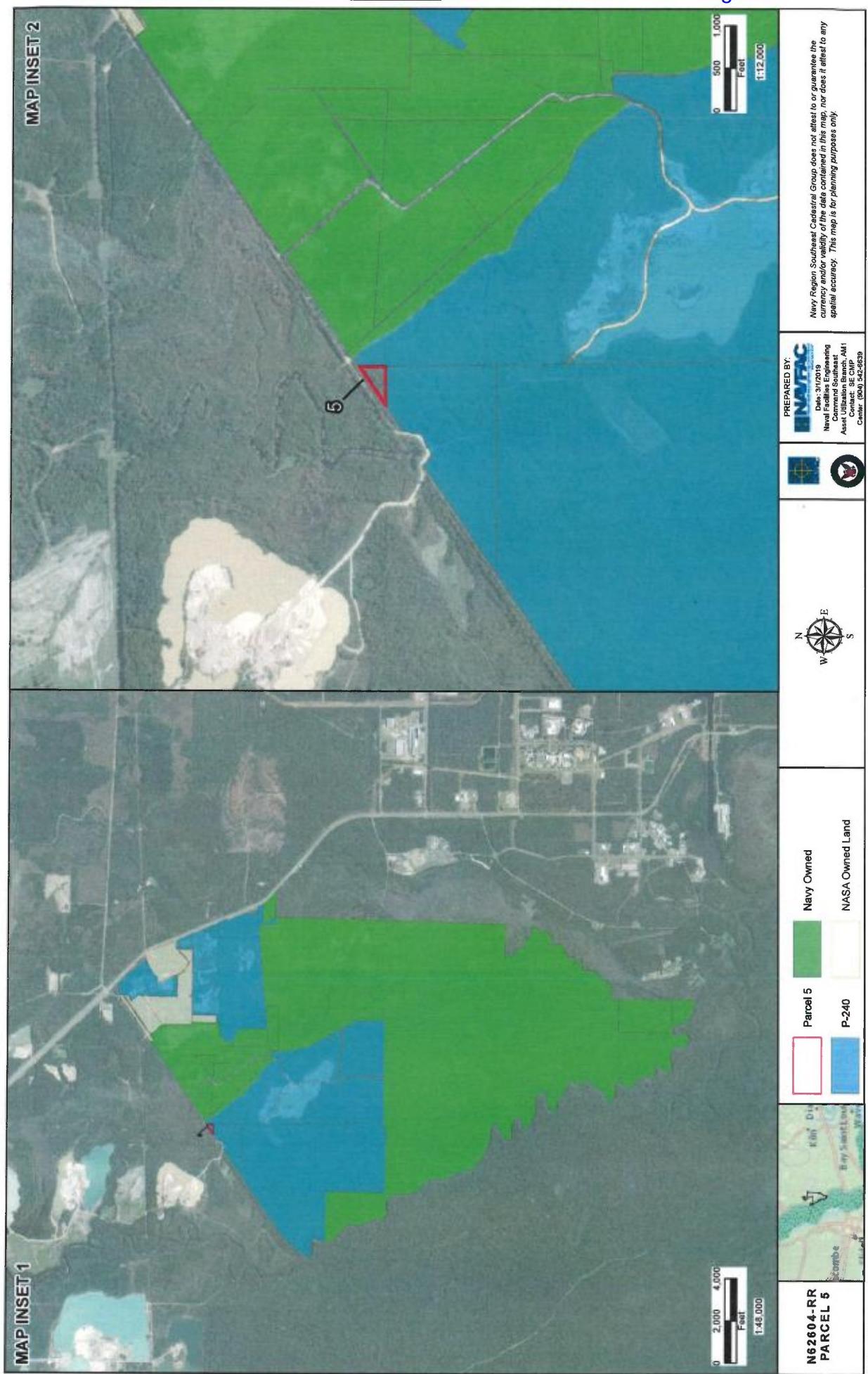
SCHEDULE C

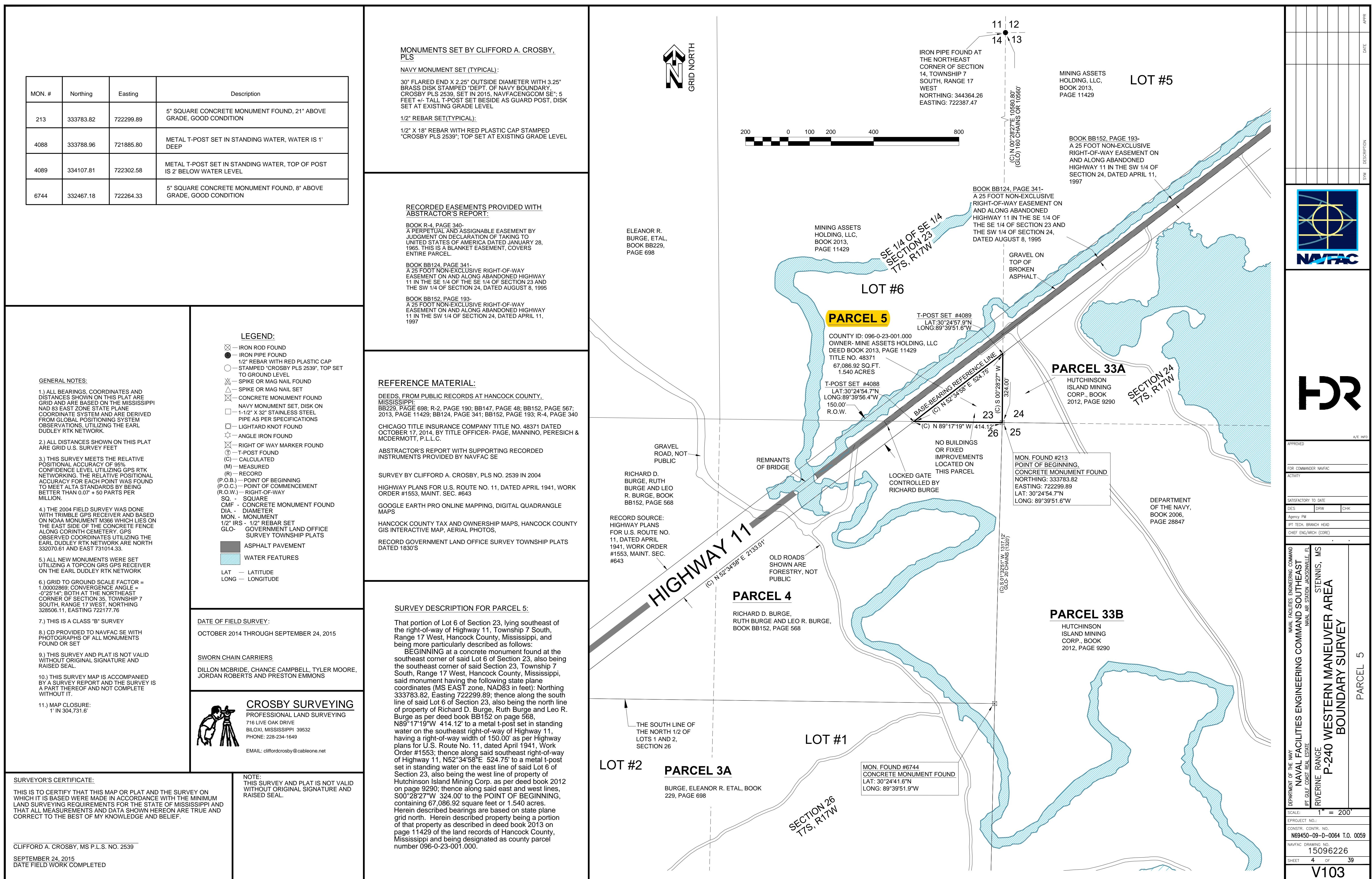
LEGAL DESCRIPTION OF PROPERTY

That portion of Lot 6 of Section 23, lying southeast of the right-of-way of Highway 11, Township 7 South, Range 17 West, Hancock County, Mississippi, and being more particularly described as follows:

BEGINNING at a concrete monument found at the southeast corner of said Lot 6 of Section 23, also being the southeast corner of said Section 23, Township 7 South, Range 17 West, Hancock County, Mississippi, said monument having the following state plane coordinates (MS EAST zone, NAD83 in feet): Northing 333783.82, Easting 722299.89; thence along the south line of said Lot 6 of Section 23, also being the north line of property of Richard D. Burge, Ruth Burge and Leo R. Burge as per deed book BB152 on page 568, N89°17'19"W 414.12' to a metal t-post set in standing water on the southeast right-of-way of Highway 11, having a right-of-way width of 150.00' as per Highway plans for U.S. Route No. 11, dated April 1941, Work Order #1553; thence along said southeast right-of-way of Highway 11, N52°34'58"E 524.75' to a metal t-post set in standing water on the east line of said Lot 6 of Section 23, also being the west line of property of Hutchinson Island Mining Corp. as per deed book 2012 on page 9290; thence along said east and west lines, S00°28'27"W 324.00' to the POINT OF BEGINNING, containing 67,086.92 square feet or 1.540 acres. Herein described bearings are based on state plane grid north. Herein described property being a portion of that property as described in deed book 2013 on page 11429 of the land records of Hancock County, Mississippi and being designated as county parcel number 096-0-23-001.001.

This parcel is depicted as Parcel 5 in Schedule D.





SCHEDULE E
ESTATE TAKEN

The estate taken in the property described in Schedule C is fee simple absolute.

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The estimated just compensation for the property being taken is \$2,300.00.

SCHEDULE G**INTERESTED PARTIES**

Names and addresses of parties who have or may claim an interest in the parcels are as follows:

Party	Record Reference
Atlantic Coast Conservancy, Inc. 72 South Main Street Jasper, Georgia 30143	Warranty Deed, recorded December 29, 2015, in Book 2015, Page 14067 of Hancock County Records
Hancock County, Mississippi Tax Assessor 854 Highway 90, Suite C Bay St. Louis, Mississippi 39520	Taxing Authority